

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
FARAD CONTINUATION SHEET.
CIVIL APPLICATION NO.216 OF 2005
IN
SECOND APPEAL NO.114 OF 2005**

Jagannath Rama Shingan

...Applicant

vs.

Smt.Yesabai Dnyanu Shingan & Anr.

...Respondents

Mr.Dilip Bodake for the Applicant

Mr.Vilas Kolekar with Mr.A.D.Pujari for Respondent No.1.

**CORAM: A.S.OKA,J.
DATE : MARCH 31, 2005.**

P.C.:

1. Rule. Respondent No.1 waives service. The Advocate for the Applicant states that Civil Application is not pressed as against the Respondent No.2 as the Respondent No.2 is supporting the Applicant.

2. The learned Counsel for the Applicant pointed out that application was made by the Respondent No.1 in the District Court for stay of operation of the Decree for perpetual injunction passed by the Trial Court. By order dated 7th March 2002, the application for stay was rejected. He therefore submitted that decree of perpetual injunction granted by the Trial Court was operating through out the pendency of the Appeal in the District Court.

3. Without disputing this factual aspect the learned Counsel

for Respondent No.1 submitted that in fact the Applicant is not in exclusive possession of the suit property and considering the finding recorded by the Appellate Court injunction as prayed for cannot be granted in favour of the Applicant.

4. Though the decree of the Trial Court was operating during the pendency of the Appeal in the District Court, from 13th August 2004 the order of injunction is not operating in favour of the Applicant. Hence, Civil Application is disposed of by directing both the parties to maintain status quo as of today till the final disposal of the Appeal.

5. Parties to act upon an authenticated copy of this order.

JUDGE.